

Committee on Ways and Means Hearing on Russia's Accession to the World Trade Organization and Granting Russia Permanent Normal Trade Relations, June 20, 2012

Questions for the Record:

Congressman Tom Reed questions for Ambassador Ron Kirk, United States Trade Representative and Ambassador William Burns, Deputy Secretary, United States Department of State:

- 1.) The dairy industry in upstate New York views the Russian market as a key one and is eager to regain access to it. Can either of the witnesses provide information on its plan to work with Russia and its Customs Union partners in order to secure this reopening of their market as well as on how the Administration – both within USTR and the State Department as well as in other agencies – is working to bring all relevant resources to bear on resolving this issue?

Answer: USTR, USDA, and FDA are actively engaging Russia and its Customs Union partners to reopen the Russian market to U.S. dairy exports, including through negotiating a new export certificate. During Russia's WTO accession negotiations, we were able to ensure that Russia had the legal framework in place—particularly in light of the new competence of the Customs Union—to negotiate new certificates. We had initial discussions on the dairy certificate in April and we sent an interagency team to Moscow in June to continue the negotiations. In addition, senior officials continue to press Russia to work expeditiously and constructively with us to reopen this important market. We will continue to push to conclude a certificate that is commercially meaningful and in line with international standards.

- 2.) My district is home to steel companies, such as Nucor Corporation, that rely on domestic sourced hot-rolled steel. I am a strong believer that a vibrant U.S. hot-rolled steel industry is essential for the long-term health and strength of the nation's economy. That is why I am concerned about the recent surge of imports of hot-rolled steel from Russia. I understand that such imports increased by more than 50% between 2010 and 2011, hampering the economic recovery of the U.S. steel industry.

As you know, there is a suspension agreement covering these imports. In fact, the Department of Commerce and the U.S. International Trade Commission ruled last year that this remedy should stay in place to prevent injury to the industry. However, the remedy is no longer effective in preventing dumping. I understand that the Department of Commerce recently issued preliminary results of their Administrative Review of the suspension agreement, which stated that the Agreement is not meeting its statutory requirement to prevent price undercutting of domestic hot-rolled steel prices and that there is price undercutting by Russian hot-rolled steel imports.

I am pleased that the U.S. Government has taken such a hard line with the Russian Government on this Agreement, and I encourage you to remain steadfast in your efforts to ensure that the agreement is effective in preventing dumping. It is absolutely essential that the U.S. government vigorously enforce both our rights under new trade agreements and our trade laws. Can you please provide an update on the status of the suspension agreement?

Answer: I appreciate your interest in trade remedies. USTR is a strong supporter of U.S. antidumping and countervailing duty laws and we work closely with the Department of Commerce to defend our trade remedies and to ensure U.S. industries continue to have access to effective laws to address injurious unfair imports. The Department of Commerce, however, has the statutory authority to administer the U.S. antidumping law. As you note, Commerce is currently conducting an administrative review of the agreement suspending the antidumping investigation on imports of Russian hot-rolled steel. As part of the administrative review, U.S. domestic producers, U.S. importers and foreign exporters have the opportunity to provide information and arguments for consideration by Commerce. If you have further questions about the antidumping review, I would encourage you to contact the Department of Commerce.

Congressman Adrian Smith and Congressman Aaron Schock questions for Ambassador Ron Kirk, United States Trade Representative:

- 1.) As you are aware, other Members of Congress have written to USTR requesting a resolution to Russia's non-market pricing of natural gas to domestic industrial users, which has also been a legitimate concern to the U.S. nitrogen fertilizer industry. Could you please elaborate on Russia's accession commitments regarding pricing natural gas at market prices to commercial users? How will the Administration actively enforce this obligation?

Answer: While the situation regarding the price of natural gas in Russia, the United States, and other countries has changed significantly over the 18-year period of negotiations on Russia's accession to the WTO, the United States has obtained strong commitments from Russia on its pricing policies.

Russia has undertaken specific commitments that will go into effect when it becomes a WTO Member and that the United States can enforce if we are able to apply the WTO Agreement to Russia.

Russia's commitments specifically related to its pricing policies include a commitment that producers/distributors of natural gas in the Russian Federation would operate, within the relevant regulatory framework, on the basis of normal commercial considerations, based on recovery of costs and profit. Russia has also confirmed that its policy is to ensure, that these economic operators, in respect of their supplies to industrial users, would recover their costs (including the cost of production, overheads, financing charges, transportation, maintenance and upgrade of extraction and distribution infrastructure,

investment in the exploration and development of new fields) and would be able to make a profit, in the ordinary course of their business.

In addition, Russia has agreed that it will apply price controls on natural gas in a manner consistent with the WTO Agreement. Furthermore, as you noted, Russia agreed that price control measures will not be used for purposes of affording protection to domestic production of goods, or to impair the service commitments of the Russian Federation. Russia has also undertaken commitments on transparency with regard to its price controls.

The Administration will be monitoring Russia's implementation and compliance with these and other commitments. However, we will not be able to enforce these commitments unless the WTO Agreement applies between the United States and Russia. We encourage Congress to give us the tools to act and end application of the Jackson-Vanik amendment and authorize extension of Permanent Normal Trade Relations to Russia.

- 2.) In paragraph 133 of the Working Party Report, Russia agreed "price control measures would not be used for purposes of affording protection to the domestic production of goods." Is this language enforceable? And if so, does the Administration have the ability to actively and in a timely manner enforce this commitment, including in WTO dispute settlement, should Russia – after it fully accedes to the WTO – continue to engage in policies to the detriment of U.S. producers?

Answer: This language is part of Russia's commitment on pricing policies and is enforceable. As with Russia's other commitments, USTR is prepared to take appropriate actions to enforce U.S. rights under the WTO Agreement, including taking issues to dispute settlement, if necessary. Before we can do that, however, we need to be able to apply the WTO Agreement to Russia.

The Administration has a strong record of taking enforcement actions where necessary to ensure compliance with WTO rules. To continue that policy, the President has devoted additional resources to ensure enforcement of our trade agreements, most recently with the creation of the International Trade Enforcement Center. The ITEC will draw expertise from various agencies to focus on monitoring and enforcement and pursue trade issues with more resources than previously available. The ITEC will bolster the resources available to track Russia's compliance with its WTO commitments, including this commitment not to use price control measures to protect domestic production.

Congressman Adrian Smith questions for Ambassador Ron Kirk, United States Trade Representative:

- 1.) The state of Nebraska is the world leader in the manufacturing of center pivot irrigation, which allows farmers to improve yields while using a fraction of the water required by

traditional irrigation techniques. In fact, some of the world's top exporters of center pivot manufacturers are in the Third District of Nebraska. Mr. Ambassador, if Congress does not pass PNTR by the time Russia joins the WTO, how would U.S. manufacturers of agriculture equipment be disadvantaged versus their competitors in Europe and elsewhere?

Answer: On day one as a WTO Member, Russia will be required to comply with WTO rules prohibiting burdensome and trade distorting technical barriers to trade that can hinder U.S. exports of goods. Russia has also undertaken enforceable commitments to open its services market in ways that will allow engineers to accompany the irrigation systems to Russia to set up the equipment. Finally, the United States will have access to WTO mechanisms, including dispute resolution, to ensure Russia's compliance with the WTO trade rules.

However, if the WTO Agreement does not apply between the United States and Russia, U.S. manufacturers of agriculture equipment will not enjoy many of the protections and market access provisions in Russia's WTO accession protocol, while their global competitors will; nor will the United States have the tools to enforce these commitments.

- 2.) If Russia were to grant the U.S. the same low tariffs because of our existing agreement, would there be any implications from the Jackson-Vanik Amendment on future efforts of U.S. center pivot irrigation manufacturers to develop the Russian market?

Answer: You are correct that under the terms of our current Bilateral Commercial Agreement, U.S. exports of center pivot irrigation equipment will be subject to the same tariff rates as that from other countries. However, as explained above, those exports would not enjoy the same protection against any burdensome and trade distortive TBT measures, or the same access for services to set up and maintain the irrigation systems. Nor would the United States have the tools to enforce Russia's commitments on behalf of Nebraska's manufacturers, exporters, creators, and workers.

Congressman Devin Nunes question for Ambassador Ron Kirk, United States Trade Representative:

- 1.) I also understand that our dairy exporters have been officially blocked from that market for almost two years now (since Sept. 2010) due primarily to ongoing dairy certificate negotiations. Exports play a vital role in helping support our dairy sector, both at the manufacturing level and at the farm level and this is a major market – worth \$2B in total global dairy imports last year. When does USTR estimate we will be back into that important dairy market and is it a top priority in the US-Russia context?

Answer: USTR, USDA, and FDA are actively engaging Russia and its Customs Union partners to reopen the Russian market to U.S. dairy exports, including through negotiation of a new export certificate. During Russia's WTO accession negotiations, we

were able to ensure that Russia had the legal framework in place—particularly in light of the new competence of the Customs Union—to negotiate new certificates. We had initial discussions on the dairy certificate in April and we sent an interagency team to Moscow in June to continue the negotiations. In addition, senior officials continue to press Russia to work expeditiously and constructively with us to reopen this important market. We will continue to push to conclude a certificate that is commercially meaningful and in line with international standards.

Congressman Ron Kind question for Ambassador Ron Kirk, United States Trade Representative:

- 1.) I understand our dairy industry is supportive of PNTR but also quite concerned about reopening the Russian market which has been officially closed to our dairy products for almost two years, since September 2010. Can you provide an update on where USTR's efforts stand to reopen this market to our dairy products and ensure that workable terms are agreed to as part of that effort?

Answer: USTR, USDA, and FDA are actively engaging Russia and its Customs Union partners to reopen the Russian market to U.S. dairy exports, including through negotiation of a new export certificate. During Russia's WTO accession negotiations, we were able to ensure that Russia had the legal framework in place—particularly in light of the new competence of the Customs Union—to negotiate new certificates. We had initial discussions on the dairy certificate in April and we sent an interagency team to Moscow in June to continue the negotiations. In addition, senior officials continue to press Russia to work expeditiously and constructively with us to reopen this important market. We will continue to push to conclude a certificate that is commercially meaningful and in line with international standards.